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# Appeal Decision

Site visit made on 29 November 2022

**by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 December 2022**

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**Appeal Ref: APP/W3330/W/22/3294420**

**Hunters Oak, Trull, Taunton, TA3 7PB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Higher Sweethay Farm Partnership against the decision of Somerset West and Taunton Council.
  - The application Ref 42/21/0082, dated 14 December 2021, was refused by notice dated 4 March 2022.
  - The application sought planning permission for erection of agricultural dwelling adjacent to Middle Sweethay Farm, Trull, without complying with a condition attached to planning permission Ref: 42/89/048, dated 1 February 1990.
  - The condition in dispute is No 7 which states that: *"The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 290(1) of the Town and Country Planning Act, 1971, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person"*.
  - The reason given for the condition is: *"The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry."*
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## Decision

1. The appeal is dismissed.

## Background and Main Issue

2. Planning permission for erection of the dwelling was granted in February 1990, with the disputed condition attached to that permission. This appeal concerns an application to remove the disputed condition.
3. The main issue is whether the condition restricting the occupancy of the dwelling is necessary and reasonable.

## Reasons

4. The appeal dwelling is positioned set back from the highway and comprises a substantial two storey dwelling. The appeal dwelling is located at the edge of a small group of buildings and, by reason of the narrow lanes, high hedges and surrounding agricultural land and buildings, the appeal site is in the countryside for planning purposes.
5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

6. Policy H1a of the Taunton Deane Site Allocations and Development Management Plan (2016) (the SADMP) concerns permanent housing for rural workers. Amongst other matters, Policy H1a of the SADMP confirms that applications to remove occupancy conditions will not be permitted unless; the dwelling is no longer needed for the purposes of a rural based enterprise, that there is no current demand for dwellings for rural based enterprises in the locality, and that the dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed by the Local Planning Authority.
7. The supporting text to Policy H1a of the SADMP provides that where applications are made to remove occupancy conditions, the Local Planning Authority will consider where there is evidence of local demand for rural workers dwellings, and that a marketing strategy will be required for a minimum of twelve months.
8. The Appellant has put it to me that the disputed occupancy condition has outlived its usefulness following the division of land and buildings associated with the former agricultural holding. The Appellant maintains that the dwelling is no longer needed for the agricultural holding stating that the holding "is now too small to require a worker's dwelling having been split away from the historic holding that it belonged to when it was built".
9. Whilst it may be the case that the occupancy restricted dwelling is no longer needed for the agricultural holding, it is clear from the wording of the disputed condition that the restriction does not seek to limit occupancy to those only employed, or indeed last employed, at the Hunters Oak holding. As such, the dwelling could be occupied by other rural workers within the area.
10. Beyond the Appellant's submissions regarding the lack of need for a restricted dwelling in association with the Hunters Oak holding, there is no substantive evidence to support any results of a prior marketing exercise to indicate the level of demand for this type of property with a rural workers occupancy condition, in this locality. In the absence of such details, the removal of the occupancy condition would conflict with criteria (ii) and (iii) of Policy H1a of the SADMP. Consequently, I am not persuaded there is sufficient justification to support the removal of the disputed condition.
11. Moreover, and without information regarding local demand following a marketing exercise, the removal of a dwelling with a rural workers occupancy condition could leave the Council in the position of having to approve further agricultural dwellings in the countryside, rather than make use of the existing stock.
12. I conclude that in the absence of any evidence to demonstrate the level of local demand for an agricultural worker's dwelling, it would not be appropriate to remove the disputed condition. This would support a supply of agricultural worker's dwellings in the locality. Therefore, the removal of the disputed condition would be contrary to Policy H1a of the SADMP which seeks to restrict development in the countryside to that required to meet the needs of agriculture or forestry.
13. The Appellant has requested that I consider that the dwelling be subject to a holiday occupancy condition to replace the rural workers occupancy condition described above. However, whilst noting the potential benefits that would be

associated with the provision of tourism accommodation, for the reasons given above, it has not been demonstrated that the removal of the disputed condition is necessary or reasonable.

14. It is acknowledged that the Parish Council supports the proposed removal of the rural workers occupancy condition. However, no reasons have been provided in respect of that support. The absence of objections from the Parish Council would not overcome conflict with Policy H1a of the SADMP as described above.

### **Conclusion**

15. For the reasons given above I conclude that the appeal should be dismissed.

*Mr A Spencer-Peet*

INSPECTOR